

AN ACT

relating to procedures for establishment, modification, and enforcement of child support obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.187(c), Family Code, is amended to read as follows:

(c) An employer who has received an order or notice under this subchapter shall provide to the sender, by first class mail not later than the 40th [~~30th~~] day after the date the employer receives the order or notice, a statement that the child:

(1) has been enrolled in the employer's health insurance plan or is already enrolled in another health insurance plan in accordance with a previous child support or medical support order to which the employee is subject; or

(2) cannot be enrolled or cannot be enrolled permanently in the employer's health insurance plan and provide the reason why coverage or permanent coverage cannot be provided.

SECTION 2. Section 154.303(b), Family Code, is amended to read as follows:

(b) The parent, the child, if the child is 18 years of age or older, or other person may not transfer or assign the cause of action to any person, including a governmental or private entity or agency, except for an assignment made to the Title IV-D agency under Section 231.104 or in the provision of child support enforcement

1 services under Section 159.307.

2 SECTION 3. Section 156.401, Family Code, is amended by
3 amending Subsection (a) and adding Subsection (a-2) to read as
4 follows:

5 (a) Except as provided by Subsection (a-1), (a-2), or (b),
6 the court may modify an order that provides for the support of a
7 child, including an order for health care coverage under Section
8 154.182, if:

9 (1) the circumstances of the child or a person
10 affected by the order have materially and substantially changed
11 since the earlier of:

12 (A) the date of the order's rendition; or

13 (B) the date of the signing of a mediated or
14 collaborative law settlement agreement on which the order is based;
15 or

16 (2) it has been three years since the order was
17 rendered or last modified and the monthly amount of the child
18 support award under the order differs by either 20 percent or \$100
19 from the amount that would be awarded in accordance with the child
20 support guidelines.

21 (a-2) A court or administrative order for child support in a
22 Title IV-D case may be modified as provided under Section
23 233.013(c) to provide for medical support of a child.

24 SECTION 4. Section 157.162, Family Code, is amended by
25 amending Subsection (c) and adding Subsection (c-1) to read as
26 follows:

27 (c) The movant may attach to the motion a [A] copy of a [the]

1 payment record. The movant may subsequently update that payment
2 record at the hearing. If a payment record was attached to the
3 motion as authorized by this subsection, the payment record, as
4 updated if applicable, [attached to the motion is evidence of the
5 facts asserted in the payment record and] is admissible to prove:

- 6 (1) the dates and in what amounts payments were made;
7 (2) the amount of any accrued interest;
8 (3) the cumulative arrearage over time; and
9 (4) the cumulative arrearage as of the final date of
10 the record.

11 (c-1) A [show whether payments were made. The] respondent
12 may offer [controverting] evidence controverting the contents of a
13 payment record under Subsection (c).

14 SECTION 5. Section 157.263, Family Code, is amended by
15 adding Subsection (b-1) to read as follows:

16 (b-1) In rendering a money judgment under this section, the
17 court may not reduce or modify the amount of child support
18 arrearages but, in confirming the amount of arrearages, may allow a
19 counterclaim or offset as provided by this title.

20 SECTION 6. Sections 157.311(1) and (4), Family Code, are
21 amended to read as follows:

22 (1) "Account" means:

23 (A) any type of a demand deposit account,
24 checking or negotiable withdrawal order account, savings account,
25 time deposit account, [money market] mutual fund account,
26 certificate of deposit, or any other instrument of deposit in which
27 an individual has a beneficial ownership either in its entirety or

1 on a shared or multiple party basis, including any accrued interest
2 and dividends; and

3 (B) an [a-life] insurance policy, including a
4 life insurance policy or annuity contract, in which an individual
5 has a beneficial ownership or [~~liability insurance~~] against which
6 an individual may file [~~has filed~~] a claim or counterclaim.

7 (4) "Financial institution" has the meaning assigned
8 by 42 U.S.C. Section 669a(d)(1) and includes a depository
9 institution, depository institution holding company as defined by
10 12 U.S.C. Section 1813(w), credit union, benefit association,
11 [~~liability or life~~] insurance company, [~~money market~~] mutual fund,
12 and any similar entity authorized to do business in this state.

13 SECTION 7. Section 157.317(a), Family Code, is amended to
14 read as follows:

15 (a) A child support lien attaches to all real and personal
16 property not exempt under the Texas Constitution or other law,
17 including:

18 (1) an account in a financial institution;

19 (2) a retirement plan, including an individual
20 retirement account; [~~and~~]

21 (3) the proceeds of an [a-life] insurance policy,
22 including the proceeds from a life insurance policy or annuity
23 contract and the proceeds from the sale or assignment of life
24 insurance or annuity benefits, a claim for compensation [~~negligence~~
25 ~~or personal injury~~], or a [an insurance] settlement or award for the
26 claim for compensation, due to or owned by the obligor; and

27 (4) property seized and subject to forfeiture under

1 Chapter 59, Code of Criminal Procedure.

2 SECTION 8. Subchapter G, Chapter 157, Family Code, is
3 amended by adding Section 157.3271 to read as follows:

4 Sec. 157.3271. LEVY ON FINANCIAL INSTITUTION ACCOUNT OF
5 DECEASED OBLIGOR. (a) Subject to Subsection (b), the Title IV-D
6 agency may, not earlier than the 90th day after the date of death of
7 an obligor in a Title IV-D case, deliver a notice of levy to a
8 financial institution in which the obligor was the sole owner of an
9 account, regardless of whether the Title IV-D agency has issued a
10 child support lien notice regarding the account.

11 (b) The Title IV-D agency may not deliver a notice of levy
12 under this section if probate proceedings relating to the obligor's
13 estate have commenced.

14 (c) The notice of levy must:

15 (1) identify the amount of child support arrearages
16 determined by the Title IV-D agency to be owing and unpaid by the
17 obligor on the date of the obligor's death; and

18 (2) direct the financial institution to pay to the
19 Title IV-D agency, not earlier than the 45th day or later than the
20 60th day after the date of delivery of the notice, an amount from
21 the assets of the obligor or from funds due to the obligor that are
22 held or controlled by the institution, not to exceed the amount of
23 the child support arrearages identified in the notice.

24 (d) Not later than the 35th day after the date of delivery of
25 the notice, the financial institution must notify any other person
26 asserting a claim against the account that:

27 (1) the account has been levied on for child support

1 arrearages in the amount shown on the notice of levy; and

2 (2) the person may contest the levy by filing suit and
3 requesting a court hearing in the same manner that a person may
4 challenge a child support lien under Section 157.323.

5 (e) A person who contests a levy under this section, as
6 authorized by Subsection (d)(2), may bring the suit in:

7 (1) the district court of the county in which the
8 property is located or in which the obligor resided; or

9 (2) the court of continuing jurisdiction.

10 (f) The notice of levy may be delivered to a financial
11 institution as provided by Section 59.008, Finance Code, if the
12 institution is subject to that law or may be delivered to the
13 registered agent, the institution's main business office in this
14 state, or another address provided by the institution under Section
15 231.307.

16 (g) A financial institution may deduct its fees and costs,
17 including any costs for complying with this section, from the
18 deceased obligor's assets before paying the appropriate amount to
19 the Title IV-D agency.

20 SECTION 9. Sections 158.203(b) and (b-1), Family Code, are
21 amended to read as follows:

22 (b) An employer with 50 [~~250~~] or more employees shall remit
23 a payment required under this section by electronic funds transfer
24 or electronic data interchange not later than the second business
25 day after the pay date.

26 (b-1) An employer with fewer than 50 [~~250~~] employees may
27 remit a payment required under this section by electronic funds

1 transfer or electronic data interchange. A payment remitted by the
2 employer electronically must be remitted not later than the date
3 specified by Subsection (b).

4 SECTION 10. The heading to Section 158.503, Family Code, is
5 amended to read as follows:

6 Sec. 158.503. DELIVERY OF ADMINISTRATIVE WRIT TO EMPLOYER;
7 FILING WITH COURT OR MAINTAINING RECORD.

8 SECTION 11. Section 158.503, Family Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (b-1) to
10 read as follows:

11 (a) An administrative writ of withholding issued under this
12 subchapter may be delivered to an ~~[obligor, obligee, and]~~ employer
13 by mail or by electronic transmission.

14 (b) The Title IV-D agency shall:

15 (1) not ~~[Not]~~ later than the third business day after
16 the date of delivery of the administrative writ of withholding to an
17 employer, ~~[the Title IV-D agency shall]~~ file a copy of the writ,
18 together with a signed certificate of service, in the court of
19 continuing jurisdiction; or

20 (2) maintain a record of the writ until all support
21 obligations of the obligor have been satisfied or income
22 withholding has been terminated as provided by this chapter.

23 (b-1) The certificate of service required under Subsection
24 (b)(1) may be signed electronically. [This subsection does not
25 apply to the enforcement under Section 158.501(c) of a support
26 order rendered by a tribunal of another state.]

27 SECTION 12. Section 231.015, Family Code, is amended to

1 read as follows:

2 Sec. 231.015. INSURANCE REPORTING PROGRAM. (a) In
3 consultation with the Texas Department of Insurance and
4 representatives of the insurance industry in this state, including
5 insurance trade associations, the Title IV-D agency by rule shall
6 operate a program ~~[to improve the enforcement of child support,~~
7 ~~including the use of child support liens under Chapter 157. The~~
8 ~~program shall provide for procedures, including data matches,~~
9 under which insurers ~~[insurance companies]~~ shall cooperate with the
10 Title IV-D agency in identifying obligors who owe child support
11 arrearages and ~~[or who]~~ are subject to liens for child support
12 arrearages to intercept certain ~~[liability]~~ insurance settlements
13 or awards for claims in satisfaction of the arrearage amounts.

14 (b) An insurer ~~[insurance company]~~ that provides
15 information or responds to a notice of child support lien or levy
16 under Subchapter G, Chapter 157, or acts in good faith to comply
17 with procedures established by the Title IV-D agency under this
18 section is not liable for those acts under any law to any person.

19 SECTION 13. Subchapter B, Chapter 231, Family Code, is
20 amended by adding Section 231.124 to read as follows:

21 Sec. 231.124. CHILD SUPPORT ARREARAGES PAYMENT INCENTIVE
22 PROGRAM. (a) The Title IV-D agency may establish and administer a
23 payment incentive program to promote payment by obligors who are
24 delinquent in satisfying child support arrearages assigned to the
25 Title IV-D agency under Section 231.104(a).

26 (b) A program established under this section must provide to
27 a participating obligor a credit for every dollar amount paid by the

1 obligor on interest and arrearages balances during each month of
2 the obligor's voluntary enrollment in the program. In establishing
3 a program under this section, the Title IV-D agency by rule must
4 prescribe:

5 (1) criteria for a child support obligor's initial
6 eligibility to participate in the program;

7 (2) the conditions for a child support obligor's
8 continued participation in the program;

9 (3) procedures for enrollment in the program; and

10 (4) the terms of the financial incentives to be
11 offered under the program.

12 (c) The Title IV-D agency shall provide eligible obligors
13 with notice of the program and enrollment instructions.

14 SECTION 14. Section 231.307, Family Code, is amended by
15 amending Subsection (d) and adding Subsection (g) to read as
16 follows:

17 (d) A financial institution providing information or
18 responding to a notice of child support lien or levy provided under
19 Subchapter G, Chapter 157, or otherwise acting in good faith to
20 comply with the Title IV-D agency's procedures under this section
21 may not be liable under any federal or state law for any damages
22 that arise from those acts.

23 (g) This section does not apply to an insurer subject to the
24 reporting requirements under Section 231.015.

25 SECTION 15. The heading to Section 232.0135, Family Code,
26 is amended to read as follows:

27 Sec. 232.0135. DENIAL OF LICENSE ISSUANCE OR RENEWAL.

SECTION 16. Sections 232.0135(a), (b), (c), and (d), Family Code, are amended to read as follows:

(a) A child support agency, as defined by Section 101.004, may provide notice to a licensing authority concerning an obligor who has failed to pay child support for six months or more that requests the authority to refuse to accept an application for issuance of a license to the obligor or renewal of an existing ~~[the]~~ license of the obligor.

(b) A licensing authority that receives the information described by Subsection (a) shall refuse to accept an application for issuance of a license to the obligor or renewal of an existing ~~[the]~~ license of the obligor until the authority is notified by the child support agency that the obligor has:

(1) paid all child support arrearages;

(2) established with the agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages;

(3) been granted an exemption from this subsection as part of a court-supervised plan to improve the obligor's earnings and child support payments; or

(4) successfully contested the denial of issuance or renewal of license under Subsection (d).

(c) On providing a licensing authority with the notice described by Subsection (a), the child support agency shall send a copy to the obligor by first class mail and inform the obligor of the steps the obligor must take to permit the authority to accept the obligor's application for license issuance or renewal.

1 (d) An obligor receiving notice under Subsection (c) may
2 request a review by the child support agency to resolve any issue in
3 dispute regarding the identity of the obligor or the existence or
4 amount of child support arrearages. The agency shall promptly
5 provide an opportunity for a review, either by telephone or in
6 person, as appropriate to the circumstances. After the review, if
7 appropriate, the agency may notify the licensing authority that it
8 may accept the obligor's application for issuance or renewal of
9 license. If the agency and the obligor fail to resolve any issue in
10 dispute, the obligor, not later than the 30th day after the date of
11 receiving notice of the agency's determination from the review, may
12 file a motion with the court to direct the agency to withdraw the
13 notice under Subsection (a) and request a hearing on the motion.
14 The obligor's application for license issuance or renewal may not
15 be accepted by the licensing authority until the court rules on the
16 motion. If, after a review by the agency or a hearing by the court,
17 the agency withdraws the notice under Subsection (a), the agency
18 shall reimburse the obligor the amount of any fee charged the
19 obligor under Section 232.014.

20 SECTION 17. Section 232.014(a), Family Code, is amended to
21 read as follows:

22 (a) A licensing authority may charge a fee to an individual
23 who is the subject of an order suspending license or of an action of
24 a child support agency under Section 232.0135 to deny issuance or
25 renewal of license in an amount sufficient to recover the
26 administrative costs incurred by the authority under this chapter.

27 SECTION 18. Section 233.012, Family Code, is amended to

1 read as follows:

2 Sec. 233.012. INFORMATION REQUIRED TO BE PROVIDED AT
3 NEGOTIATION CONFERENCE. At the beginning of the negotiation
4 conference, the child support review officer shall review with the
5 parties participating in the conference information provided in the
6 notice of child support review and inform the parties that:

7 (1) the purpose of the negotiation conference is to
8 provide an opportunity to reach an agreement on a child support
9 order;

10 (2) if the parties reach an agreement, the review
11 officer will prepare an agreed review order to be effective
12 immediately on being confirmed by the court, as provided by Section
13 233.024;

14 (3) a party does not have to sign a review order
15 prepared by the child support review officer but that the Title IV-D
16 agency may file a review order without the agreement of the parties;

17 (4) the parties may sign a waiver of the right to
18 service of process;

19 (5) a party may file a request for a court hearing on a
20 nonagreed order not later than ~~[at any time before]~~ the 20th day
21 after the date a copy of the petition for confirmation of the order
22 is delivered to the party ~~[filed]~~; and

23 (6) a party may file a motion for a new trial not later
24 than ~~[at any time before]~~ the 30th day after an order is confirmed
25 by the court.

26 SECTION 19. Section 233.013, Family Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) Notwithstanding Subsection (b), the Title IV-D agency
2 may, at any time and without a showing of material and substantial
3 change in the circumstances of the parties, file a child support
4 review order that has the effect of modifying an existing order for
5 child support to provide medical support for a child if the existing
6 order does not provide health care coverage for the child as
7 required under Section 154.182.

8 SECTION 20. Section 1108.101, Insurance Code, is amended to
9 read as follows:

10 Sec. 1108.101. ASSIGNMENT GENERALLY. (a) This chapter
11 does not prevent an insured, owner, or annuitant from assigning, in
12 accordance with the terms of the policy or contract:

13 (1) any benefits to be provided under an insurance
14 policy or annuity contract to which this chapter applies; or

15 (2) any other rights under the policy or contract.

16 (b) A benefit or right described by Subsection (a) assigned
17 by an insured, owner, or annuitant after a child support lien notice
18 has been filed against the insured, owner, or annuitant by the Title
19 IV-D agency continues to be subject to the child support lien after
20 the date of assignment. The lien continues to secure payment of all
21 child support arrearages owed by the insured, owner, or annuitant
22 under the underlying child support order, including arrearages that
23 accrue after the date of assignment.

24 SECTION 21. Section 411.1271, Government Code, is amended
25 by adding Subsection (b-1) and amending Subsection (c) to read as
26 follows:

27 (b-1) The office of the attorney general is entitled to

1 obtain from the Department of Public Safety, the Federal Bureau of
2 Investigation identification division, or another law enforcement
3 agency criminal history record information maintained by the
4 department or agency that relates to a person who owes child support
5 in a Title IV-D case, as defined by Section 101.034, Family Code,
6 for the purposes of locating that person and establishing,
7 modifying, or enforcing a child support obligation against that
8 person.

9 (c) Criminal history record information obtained by the
10 office of the attorney general under this section [~~Subsection (a)~~
11 ~~or (b)~~] may not be released or disclosed to any person except on
12 court order or with the consent of the person who is the subject of
13 the criminal history record information.

14 SECTION 22. Section 34.04(a), Tax Code, is amended to read
15 as follows:

16 (a) A person, including a taxing unit and the Title IV-D
17 agency, may file a petition in the court that ordered the seizure or
18 sale setting forth a claim to the excess proceeds. The petition
19 must be filed before the second anniversary of the date of the sale
20 of the property. The petition is not required to be filed as an
21 original suit separate from the underlying suit for seizure of the
22 property or foreclosure of a tax lien on the property but may be
23 filed under the cause number of the underlying suit.

24 SECTION 23. Article 59.06(a), Code of Criminal Procedure,
25 is amended to read as follows:

26 (a) Except as provided by Subsection (k), all forfeited
27 property shall be administered by the attorney representing the

1 state, acting as the agent of the state, in accordance with accepted
2 accounting practices and with the provisions of any local agreement
3 entered into between the attorney representing the state and law
4 enforcement agencies. If a local agreement has not been executed,
5 the property shall be sold on the 75th day after the date of the
6 final judgment of forfeiture at public auction under the direction
7 of the county sheriff, after notice of public auction as provided by
8 law for other sheriff's sales. The proceeds of the sale shall be
9 distributed as follows:

10 (1) to any interest holder to the extent of the
11 interest holder's nonforfeitable interest; ~~[and]~~

12 (2) after any distributions under Subdivision (1), if
13 the Title IV-D agency has filed a child support lien in the
14 forfeiture proceeding, to the Title IV-D agency in an amount not to
15 exceed the amount of child support arrearages identified in the
16 lien; and

17 (3) the balance, if any, after the deduction of court
18 costs to which a district court clerk is entitled under Article
19 59.05(f) and, after that deduction, the deduction of storage and
20 disposal costs, to be deposited not later than the 30th day after
21 the date of the sale in the state treasury to the credit of the
22 general revenue fund.

23 SECTION 24. Section 157.262, Family Code, is repealed.

24 SECTION 25. Section 233.017(c), Family Code, is repealed.

25 SECTION 26. Section 154.187(c), Family Code, as amended by
26 this Act, applies to an order or notice received by an employer on
27 or after the effective date of this Act. An order or notice

1 received by an employer before the effective date of this Act is
2 governed by the law in effect on the date the order or notice was
3 received, and the former law is continued in effect for that
4 purpose.

5 SECTION 27. Sections 156.401(a-2) and 233.013(c), Family
6 Code, as added by this Act, apply to each child support order,
7 regardless of whether the order was rendered before, during, or
8 after the effective date of this Act.

9 SECTION 28. Section 157.162, Family Code, as amended by
10 this Act, applies to a motion for child support enforcement filed on
11 or after the effective date of this Act. A motion filed before the
12 effective date of this Act is governed by the law in effect on the
13 date the motion was filed, and the former law is continued in effect
14 for that purpose.

15 SECTION 29. Section 157.263(b-1), Family Code, as added by
16 this Act, applies to a motion for enforcement of child support that
17 is pending before a trial court on or filed on or after the
18 effective date of this Act.

19 SECTION 30. Section 158.203, Family Code, as amended by
20 this Act, applies to child support payments withheld by an employer
21 on or after the effective date of this Act.


22 SECTION 31. Section 158.503, Family Code, as amended by
23 this Act, applies to an administrative writ of withholding issued
24 on or after the effective date of this Act.

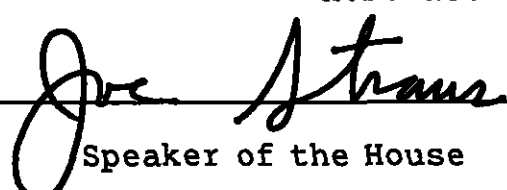
25 SECTION 32. Section 1108.101(b), Insurance Code, as added
26 by this Act, applies to an assignment made on or after the effective
27 date of this Act. An assignment made before the effective date of

1 this Act is governed by the law in effect on the date the assignment
2 was made, and the former law is continued in effect for that
3 purpose.

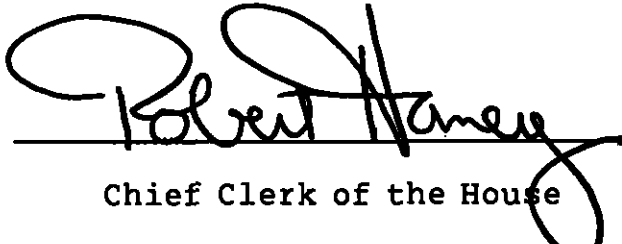
4 SECTION 33. Article 59.06(a), Code of Criminal Procedure,
5 as amended by this Act, applies to a sale of forfeited property that
6 occurs on or after the effective date of this Act. A sale that
7 occurs before the effective date of this Act is governed by the law
8 in effect on the date the property was sold, and the former law is
9 continued in effect for that purpose.

10 SECTION 34. This Act takes effect September 1, 2011.

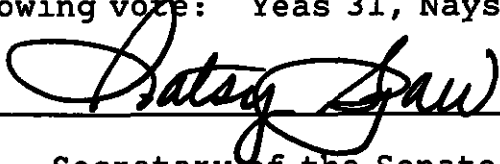

President of the Senate

H.B. No. 1674

Speaker of the House

I certify that H.B. No. 1674 was passed by the House on March 30, 2011, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1674 on May 16, 2011, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

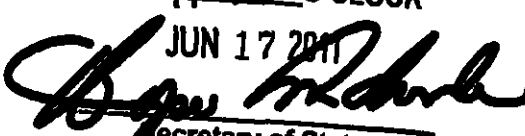

Chief Clerk of the House

I certify that H.B. No. 1674 was passed by the Senate, with amendments, on May 4, 2011, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 17 JUN '11
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4 PM O'CLOCK
JUN 17 2011

Secretary of State